



**LAW OFFICE OF GERALD
OGINSKI, LLC**

67 Cutter Mill Road
Great Neck, NY 11021

T 516-487-8207

Gerry@Oginiski-Law.com

Judge is against me from the start. What can I do?

The judge is against me from the start. Every ruling goes against me. The judge doesn't like my case. He doesn't like my witnesses. He's yelling at me the whole time. Can I turn to the judge, during the trial, and ask him to excuse himself ... Because I don't think he's being fair to us? Can I do that? You want to know answer? Come join me for a moment, as I share with you some great information. Hi. I'm Gerry Oginiski. I'm a New York malpractice and personal injury attorney, practicing in law, here in the state of New York.

Do you know how sometimes you meet somebody for the very first time, and you don't know what it is, but you just don't click? Something about that interaction, prevents them, from getting to know you, or getting to like you. That happens sometimes at court too. The judge ... For whatever reason ... Doesn't like me. He doesn't like my client. He doesn't like my case. He doesn't like the evidence I'm putting in.

It seems as if ... Or at least the perception is ... That, he doesn't like us, and he's doing something to favor, the other side. Now, what can I do in that instance? There are two things that I can do, and that I must do. The very first thing that I have to do, when I notice this occurring, is that I have to make a record of every single thing that's going on in the courtroom. I have to make sure that, everything's that's going against me, is properly recorded by the court reporter.

Now, if we have a conversation with the judge privately, and he rules against me, I want to bring the court reporter into the judge's chambers, so that now, we can record exactly what the legal arguments were, and what the judge ruled, now, against me. Why do I do that? I do that, because if I lose the case, now, if I have to go and appeal the case, I can show to the higher court ... To the appellate court ... All of

the things that the judge did, and now they can review it to determine whether or not we are correct, or whether or not the judge was correct, on the issues of law.

The judge controls the courtroom, and that's understandable. But what happens if every single thing he does, literally, goes against us. The only other option I have is to ask the judge finally, I'm at my wits end. "Judge, I have to ask you to excuse yourself from this case. I feel you're being unfair to my client." Now, I'm not going to say this in front of the jury, unless things got really out of hand. I'd ask the judge for a private conference ... With my adversary ... And now I'll have to explain to him why ... I believe ... He should not be sitting and listening in judgement, to our case.

I have to give a good reason why. I have to show that the judge is being prejudiced, or being biased, and being unfair to our side. Now the judge has two options. He can either say, "No. I feel I'm being totally fair." Or, "You're absolutely right. I'm going to now send this to another judge. You're going to start this case from the very beginning."

That's know legally as, "asking the judge to recuse himself", which really has the same affect of the judge excusing himself. But he's got to have a reason why. He's got to justify ... To his superiors ... Why he's backing out of a case, that he's already started.

Why do I share this information with you? I share it with you just to give a sense of what can happen ... In rare instances ... In an accident case, or in a medical malpractice case, or even in a wrongful death case ... Here in the state of New York ... that goes to trial. I recognize you've got questions or concerns about your own particular matter. If you matter did happen here in New York, and you're thinking about bringing a lawsuit, but you've got legal questions, what I invite you to do is, pick up the phone and call me.

I can answer your legal questions. This is something I do every single day, and I'd love to chat with you. You can reach me at 516-487-8207. Or by email at gerry@oginski-law.com. That's it for today's video. I'm Gerry Oginski. Have a wonderful day.